by any box, wrapper or receptacle, and there was no showing that they were so enclosed by the carrier. On appeal from a mulct tax assessed under a statute imposing such a tax on persons selling cigarettes within the state, *Held*, that the statute was constitutional. *Cook* v. *Marshall County* (1903), — Ia. —, 93 N. W. Rep. 372.

The court held that the boxes were not original packages under the rule of federal decisions, *Leisy* v. *Hardin* (1890), 135 U. S. 100, 10 Sup. Ct. Rep. 681, 34 L. ed. 128, and that the sale of the cigarettes was therefore subject to state regulation. The court follows the rule of *Austin* v. *Tennessee* (1900), 179 U. S. 343, 21 Sup. Ct. Rep. 132, 45 L. ed. 224, upholding a similar statute, that "the size of the package in which bona fide transactions are carried on between the manufacturer and the wholesale dealer residing in different states" is to govern, and not the "size of the package in which the importation is actually made." The transaction in this case, far from being bona fide, the court termed a "discreditable subterfuge to which the court ought not to lend its countenance." The court criticises the extension of the doctrine originally laid down by Chief Justice Marshall in *Brown* v. *Maryland* (1827), 12 Wheat. 419, 6 L. ed. 678, enunciated as it was at a time when for safety and convenience in transportation, articles of commerce were packed in boxes or bales, as unwarrantable, and the principle there announced as "so distorted and wrested from its original simple meaning, that if the great jurist were permitted to return to the scene of his historic labors, he would doubtless hesitate long before acknowledging the legitimacy of the descent of the modern doctrine." The appellant attempted to distinguish the principal case from that of *Austin* v. *Tennessee*, *supra*, in that in the latter it appeared affirmatively that the boxes were transported in a basket furnished by the carrier, while in the former no receptacle was used by the consignor, nor did it appear that the express company employed any in the transit. The court, however, assumed that in removing the boxes, the carrier acted in an ordinary and rational manner, and gathered the same in some receptacle, which would then constitute the original package. *McGregor* v. *Cone* (1898), 104 Ia. 465, 73 N. W. 1041, 39 L. R. A. 484, 65 Am. St. Rep. 522; *State* v. *Chapman* (1890), 1 S. D. 114, 47 N. W. 411, 10 L. R. A. 432; *Guckenheimer* v. *Sellars* (1897), 81 Fed. 997; *Keith* v. *State* (1890), 91 Ala. 2, 8 So. 353, 10 L. R. A. 430. Prior to the case of *Austin* v. *Tennessee*, which concluded the question, similar boxes had been held original packages, and statutes similar to the above held unconstitutional. *State* v. *Goetze* (1897), 43 W. Va. 495, 64 Am. St. Rep. 871, 27 S. E. 225; *Iowa* v. *McGregor* (1896), 76 Fed. 956; *In re Harman* (1890), 43 Fed. Rep. 372; *In re Minor* (1895), 69 Fed. 233.

CONSTITUTIONAL LAW—MUNICIPAL CORPORATIONS—VALIDITY OF ORDINANCE REQUIRING UNION LABEL.—An ordinance required the Typographical Union label on all city printing. A non-union firm, in response to an advertisement, submitted a bid and was awarded a contract. The city refused to accept the work on its completion, upon the ground that it did not bear the union label. Action was thereupon brought to recover the amount of the bill, and to have the ordinance declared void. *Held*, that the latter was unconstitutional. *Marshall & Bruce Co.* v. *City of Nashville* (1903), — Tenn. —, 71 S. W. Rep. 815.

The ordinance was held to violate a provision of the city charter providing that city contracts should be awarded to the lowest bidder; to contravene the Fourteenth Amendment, in that it deprived non-union men of their rights and liberties in pursuing their avocation so far as public printing is concerned; and void as a discrimination between classes, as encouraging monopoly, and as

against public policy. The case is rightly decided both upon principle and authority. *Holden* v. *City of Alton* (1899), 179 Ill. 318, 53 N. E. 556; *Fiske* v. *People* (1900), 188 Ill. 206, 58 N. E. 985, 52 L. R. A. 291; *Adams* v. *Brennan* (1898), 177 Ill. 194, 52 N. E. 314, 42 L. R. A. 718, 69 Am. St. 222; *City of Atlanta* v. *Stein* (1900), 111 Ga. 789, 36 S. E. 932, 51 L. R. A. 335; *People* v. *Gillson* (1888), 109 N. Y. 389, 17 N. E. 343, 4 Am. St. 465; COOLEY, CONS. LIM. (6th ed.) 481; 1 DILL. MUN. CORP. (4th ed.) sec. 322. In allowing the recovery of the plaintiff's bill the court held that the provision of the advertisement calling for the union label could be ignored altogether, and that the awarding of the contract, as in this case, to the lowest bidder, was binding upon the city.

CONSTITUTIONAL LAW—VESTED RIGHTS—ALIMONY.—A judgment of divorce a vinculo had been granted and alimony fixed at $4000 per year. Acting under chapter 724 of the Laws of 1900, an order was entered by the court reducing the alimony. The law of 1900 was passed subsequent to the original decree, and enacted that "in divorce proceedings the defendant is to provide suitably for the education and maintenance of the children of the marriage, and for the support of the plaintiff—At any time after the final decree, whether hereafter or heretofore rendered, the court may amend, vary or modify such direction." *Held*, that the act was unconstitutional. *Livingston* v. *Livingston* (1903), — N. Y. —, 66 N. E. Rep. 123.

The court held the right to alimony was a vested right, and the legislature was powerless to divest the defendant of this property right by subsequent legislation. Few cases have been adjudicated involving the exact point in controversy here. Some states regard alimony as a portion of the husband's estate, made by the decrees to vest in the wife. II BISHOP, MARRIAGE AND DIVORCE, § 1061; *Miller* v. *Clark*, 23 Ind. 370. However, the contrary view appears to have the weight of reason, and finds support in the following decisions: — *Noyes* v. *Hubbard*, 64 Vt. 302, 15 L. R. A. 394; *Kempster* v. *Evans*, 81 Wis. 247, 15 L. R.A. 391; *Barber* v. *Barber*, 2 Pinn. 297, 62 U. S. 21 How. 582; *Lyon* v. *Lyon*, 21 Conn. 185; *Chase* v. *Ingalls*, 97 Mass. 524; *Bacon* v. *Bacon*, 43 Wis. 197. The authorities are agreed, that unless the court reserves the right to make changes in the decree, it becomes final after the term in which it is passed upon:—*Smith* v. *Smith*, 45 Ala. 264; *Howell* v. *Howell*, 104 Cal. 45; *Mitchell* v. *Mitchell*, 20 Kan. 665; *Stratton* v. *Stratton*, 73 Me. 481; *Kamp* v. *Kamp*, 59 N. Y. 212; *Fries* v. *Fries*, I McArthur (D. C.) 291; *Lockridge* v. *Lockridge*, 3 Dana (Ky.) 28. However in a decree of divorce a mensa et thoro, allowance made the wife as a permanent alimony, may be increased or diminished subsequent to the original decree. *Bauman* v. *Bauman*, 18 Ark. 320, 68 Am. Dec. 171; *Wheeler* v. *Wheeler*, 18 Ill. 39; *Miller* v. *Miller*, 6 Johns. Ch. (N. Y.) 90.

CONTRACT—RESCISSION AS AFFECTING RIGHTS OF A STRANGER TO THE CONSIDERATION.—Lands were sold to defendant by his mother, the consideration being a bond conditioned for her support secured by a mortgage upon the premises. It was provided in the bond that if the grantee should sell the land he should pay specified sums to his mother and a younger brother, respectively. Defendant sold the property, settled the mother's claim, and she cancelled the bond and released the mortgage. The second son had been in entire ignorance of the provision for his benefit, it having been in the nature of a contingent gift from his mother. Upon learning of it he brings this action to foreclose, notwithstanding the settlement between his mother and brother, and the release and cancellation of the mortgage. *Held*, that plaintiff has a good cause of action. *Tweeddale* v. *Tweeddale* (1903), — Wis. —, 93 N. W. Rep. 440.